

# HOUSE BILL No. 1346

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-50-2-11.

**Synopsis:** Sentencing enhancements for use of firearms. Provides that a person who knowingly or intentionally: (1) uses a firearm in the commission of a felony against a person that results in death or serious bodily injury, kidnapping, or criminal confinement as a Level 2 or Level 3 felony; or (2) points or discharges a firearm at an individual whom the person knew, or reasonably should have known, was a police officer in the commission of any other misdemeanor or felony; may be sentenced to an additional fixed term of imprisonment equal to the term of imprisonment imposed for the underlying felony or misdemeanor. (Current law provides that the person may be sentenced to an additional fixed term of imprisonment of between five years and 20 years.)

**Effective:** July 1, 2016.

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January 12, 2016, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## HOUSE BILL No. 1346

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 35-50-2-11, AS AMENDED BY P.L.238-2015,
- 2 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2016]: Sec. 11. (a) As used in this section, "firearm" has the
- 4 meaning set forth in IC 35-47-1-5.
- 5 (b) As used in this section, "offense" means:
- 6 (1) a felony under IC 35-42 that resulted in death or serious bodily
- 7 injury;
- 8 (2) kidnapping; or
- 9 (3) criminal confinement as a Level 2 or Level 3 felony.
- 10 (c) As used in this section, "police officer" means any of the
- 11 following:
- 12 (1) A state police officer.
- 13 (2) A county sheriff.
- 14 (3) A county police officer.
- 15 (4) A city police officer.
- 16 (5) A state educational institution police officer appointed under
- 17 IC 21-39-4.



(6) A school corporation police officer appointed under IC 20-26-16.

(7) A police officer of a public or private postsecondary educational institution whose board of trustees has established a police department under IC 21-17-5-2 or IC 21-39-4-2.

(8) An enforcement officer of the alcohol and tobacco commission.

(9) A conservation officer.

(d) The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed an offense sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of the offense.

(e) The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed a felony or misdemeanor other than an offense (as defined under subsection (b)) sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person, while committing the felony or misdemeanor, knowingly or intentionally:

(1) pointed a firearm; or

(2) discharged a firearm;

at an individual whom the person knew, or reasonably should have known, was a police officer.

(f) If the person was convicted of:

(1) the offense under subsection (d); or

(2) the felony or misdemeanor under subsection (e);

in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

(g) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of the offense under subsection (d), the court may sentence the person to an additional fixed term of imprisonment **of between five (5) years and twenty (20) years: equal to the term of imprisonment imposed for the underlying offense described in subsection (d).**

(h) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person, while committing a felony or misdemeanor under subsection (e), knowingly or intentionally:



1           (1) pointed a firearm; or  
2           (2) discharged a firearm;  
3       at an individual whom the person knew, or reasonably should have  
4       known, was a police officer, the court may sentence the person to an  
5       additional fixed term of imprisonment of ~~between five (5) and twenty~~  
6       ~~(20) years.~~ **equal to the term of imprisonment imposed for the**  
7       **underlying felony or misdemeanor described in subsection (e).**  
8       (i) A person may not be sentenced under subsections (g) and (h) for  
9       offenses, felonies, and misdemeanors comprising a single episode of  
10      criminal conduct.

